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BAVIE W. BANIEL OF US DISTRICT COURT,

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5: 01-CV-420-BO(3)

GINGER E. HUBER,)
Plaintiff,)) DEFENDANT HARPER'S) MOTION TO DISMISS,
v.	Fed. R. Civ. Proc. 12(b)(2),(4), & (5)
NORTH CAROLINA STATE UNIVERSITY; RALPH HARPER; JEFF MANN; GEORGE L. WORSLEY; DAVE RAINER,)))
Defendants.	,)

NOW COMES Defendant Ralph Harper, by and through his undersigned counsel, Roy Cooper, Attorney General of North Carolina, William McBlief, Assistant Attorney General, and Deborrah L. Newton, Assistant Attorney General, and moves this Honorable Court pursuant to Federal Rules of Civil Procedure 12(b)(2),(4), & (5) to dismiss the instant complaint for Plaintiff's failure to properly serve the Complaint, resulting in failure of this Court's personal jurisdiction over Defendant Harper. In support thereof, Defendant Harper would allege and say:

- (1) Plaintiff failed to properly serve the complaint upon Defendant Harper by serving same via U.S. mail; and
- (2) For lack of proper service, this Court lacks personal jurisdiction over Defendant.

WHEREFORE, Defendant Harper prays this Honorable Court dismiss Plaintiff's complaint against him for failure of personal jurisdiction and insufficiency of service of process.

RESPECTFULLY SUBMITTED this the 7th day of June 2001.

ROY	COOPER	
$\mathbf{N} \mathbf{V} \mathbf{I}$	COULLIN	

ATTORNEY GENERAL

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AMENDED CERTIFICATE OF SERVICE

I hereby certify as counsel for Defendants in the above-captioned matter that I have this date served a copy of the foregoing DEFENDANT HARPER'S MOTION TO DISMISS and BRIEF IN SUPPORT OF DEFENDANT HARPER'S MOTION TO DISMISS on the party Plaintiff by depositing same in the United States mail, first class postage prepaid, and properly addressed upon counsel for Plaintiff as follows:

Jonathan D. Sasser Moore & Van Allen, P.L.L.C. Post Office Box 26507 Raleigh, North Carolina 27611

Thomas J. Ziko
Special Deputy Attorney General,
Sylvia H. Thibaut and
Thomas O. Lawton, III
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Attorneys for Co-Defendants

THIS the 7th day of June 2001.

William McBlief

Assistant Attorney General